

REMARKS

Claims 6-10 are amended. No claims have been canceled, or added. Claims 1-14 are now pending in the application. The amendments to the claims as indicated herein do not add any new matter to this application. Furthermore, amendments made to the claims as indicated herein have been made to exclusively improve readability and clarity of the claims and not for the purpose of overcoming alleged prior art. Each issue raised in the Office Action is addressed hereinafter.

I. CLAIM REJECTION UNDER 35 U.S.C. § 101

Claims 6-10 are rejected under 35 U.S.C. § 101 as allegedly directed towards allegedly non-statutory subject matter. Specifically, the Office Action alleged that “computer-readable medium” is not in accordance with the Interim Guidelines. Applicants disagree with the basis of the rejection; however, solely for the purposes of advancing prosecution and administrative efficiency, Claims 6-10 presently recite a “computer-readable storage medium.” A computer-readable storage medium carrying instruction is an “article of manufacture” and therefore the present claims recite statutory subject matter. Reconsideration is respectfully requested.

II. CLAIM REJECTION UNDER 35 U.S.C. § 102

Claims 1,4-6, and 9-14 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by the Joint Technical Committee’s ISO/IEC 10589:2002(E), entitled “Information Technology—Telecommunications and information exchange between systems—Intermediate System to Intermediate System intra-domain routing information exchange protocol for use in conjunction with the protocol for providing the connectionless-mode network service (ISO 8473),” and hereinafter referred to as *ISO 10589*. Applicants traverse the rejection. Reconsideration is respectfully requested.

As a preliminary matter, the cited reference does not fall under the statutory basis for rejection relied upon in the Office Action. 35 U.S.C. § 102(e) pertains to published patent

applications and granted patents. *ISO 10589* is non-patent literature and is not a patent or patent application. *ISO 10589* is not citable under 35 U.S.C. § 102(e).

Nonetheless, *ISO 10589* fails to anticipate Claims 1, 4-6, and 9-14 under subsection (a) or (b) of 35 U.S.C. § 102. To anticipate under 35 U.S.C. § 102, a reference must show all elements, steps or limitations of a claim, arranged as in the claim. An anticipation rejection is unsupported or overcome if a reference is missing even one element, step, or limitation. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983). Because *ISO 10589* is missing at least one element of the indicated claims, *ISO 10589* does not support a 35 U.S.C. § 102 rejection.

INDEPENDENT CLAIMS 1, 5, 6, AND 10-14

Each of independent Claims 1, 5, 6, and 10-14 recite, in one form or another, “sending a link-state packet without adjacency information and without an overload bit set.” For example, Claim 5 recites, in part:

- i) determining that adjacency establishment is required;
- ii) transmitting a message to discover neighboring network elements;
- iii) receiving messages from neighboring network elements; and
- iv) in response to the received messages, generating a link-state packet;
- v) sending the link-state packet without adjacency information and without an overload bit set;

For example, a device implementing the method of Claim 5 determines that adjacency establishment is required and such a determination may have been made, for example, because the device may have recently restarted. In response to the exchange of discovery messages, the device may send out a link-state packet. This link-state packet **does not advertise adjacency information, and its overload bit is not set**. In this manner, the device informs the network “that the node is not ready to receive traffic.” Specification at [0048-0049].

ISO 10589, on the other hand, does not contemplate sending a link-state packet **without adjacency information**. The Office Action implies that this element is met by the fact that *ISO 10589* teaches that link state PDUs are exchanged without the overload bit set when there are no errors and to update the systems. However, in this aspect, *ISO 10589* teaches nothing more than the conventional use of link-state packets within the IS-IS protocol. The Office Action does not allege how this fact teaches that a link-state packet may be sent without adjacency information. In fact, *ISO 10589* positively requires adjacency information in a link-state packet. For instance, *ISO 10589* teaches “Each Link State PDU contains information about the identity and routing metric values of the adjacencies of the IS that originated the Link State PDU.” Therefore, *ISO 10589* lacks an express feature of the claim—sending without adjacency information—and expressly teaches away from the claims.

For at least the foregoing reason, *ISO 10589* does not disclose every element of independent Claim 5. Nor does *ISO 10589* disclose every element of Claims 1, 5, 6, and 10-14, which also feature sending a link-state packet without adjacency information. Therefore, *ISO 10589* cannot anticipate the claims. Reconsideration is respectfully requested.

DEPENDENT CLAIMS 4 AND 9

Claims 4 and 9 depend from Claims 1 and 6, respectively, and include each of the above-quoted features by dependency. Thus, Claims 4 and 9 also lack at least one feature found in *ISO 10589*. Therefore, *ISO 10589* does not anticipate Claims 4 and 9. Reconsideration is respectfully requested.

In addition, each of Claims 4 and 9 recites at least one feature that independently renders it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those limitations is not included at this

time, although the Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

III. CLAIM REJECTIONS BASED ON 35 U.S.C. § 103

Claims 2, 3, 7, and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *ISO 10589* in view of “Restart signaling for IS-IS” by Shand et al. (hereinafter *Shand*).

Applicants traverse the rejection. Reconsideration is respectfully requested.

DEPENDENT CLAIMS 2, 3, 7, AND 8

Claims 2, 3, 7, and 8 are dependent upon independent Claims 1 and 6, respectively. As discussed in section II above, *ISO 10589* fails to disclose every element of Claim 1 and 6. The limitations, identified above, which are missing from *ISO 10589*, are also missing from *Shand*. In fact, the Office Action did not even allege that *Shand* disclosed or suggested those limitations. Consequently, the combination of *ISO 10589* and *Shand* fails to disclose every element of Claims 2, 3, 7 and 8. Thus, Claims 2, 3, 7 and 8 are patentable over *ISO 10589* in view of *Shand*.

Additionally, each of the dependent claims recites at least one additional limitation that independently renders it patentable over *ISO 10589* in view of *Shand*. However, in light of the fundamental differences already identified, and to expedite prosecution, separate arguments for those limitations are not provided. Removal of the rejection is requested.

IV. CONCLUSIONS & MISCELLANEOUS

For the reasons set forth above, all of the pending claims are now in condition for allowance. The Examiner is respectfully requested to contact the undersigned by telephone relating to any issue that would advance examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a check for the petition for extension of time fee and other applicable fees is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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